IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

OP.No. 34825 of 2001(U)

PETITIONER:

BALAKRISHNAN,
S/O. APPU, THOLAMPUZHA HOUSE,
KAVASSERY, PALAKKAD.

BY ADV. SRI.N.N.SUGUNAPALAN

RESPONDENTS:
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1. **TALUK LAND BOARD, PALAKKAD.**
2. **TAHSILDAR, ALATHUR.**
3. **DISTRICT COLLECTOR, PALAKKAD.**
4. **LAND BOARD, THIRUVANANTHAPURAM.**
5. **COMMISSIONER SECRETARY, REVENUE DEPARTMENT, GOVT. OF KERALA, GOVT. SECRETARIAT, THIRUVANANTHAPURAM.**
6. **STATE OF KERALA, REP. BY THE CHIEF SECRETARY TO GOVT., GOVT. SECRETARIAT, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SMT. K.R.DEEPA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO. 56825/2001 IN OP NO. 34825/2001 U.

DISMISSED

05/07/2007. SD/- KURIAN JOSEPH, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER DT. 24/1/79 BY THE TALUK LAND BOARD, PALAKKAD.

EXT.P2. COPY OF THE NOTICE DT. 24/11/00 BY THE R2 TO THE VILLAGE OFFICER, KAVASSERY.

EXT.P3. COPY OF THE ORDER DT. 30/12/00 BY THE DIST. COLLECTOR, PALAKKAD.

EXT.P4. COPY OF THE REPRESENTATION DT. 22/1/2001 BY THE PETITIONER BEFORE THE R5.

EXT.P5. COPY OF THE GO RT NO. 2306/2001/RD DT. 5/10/2001 BY THE GOVT.

True copy

tga

KURIAN JOSEPH, J.

O.P. NO. 34825 OF 2001

Dated this the 5th day of July, 2007.

J U D G M E N T

This writ petition is filed with the following prayers:

> i) Issue a writ of certiorari or any other appropriate writ, order or direction quashing Exhibits P3 and P5.
>
> ii) Issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents not to take possession of the property held by the petitioner in Sy. Nos. 34/2, 24/2, 2/1 and 24/2 of Kavassery Village.

2. On 05.02.2007 in C.M.P. No. 56825/2001 this Court passed the following order:

> " Prayer in the O.P. is essentially for a direction to respondents to accept alternate land in lieu of land surrendered by the petitioner in 1979 which is said to be rocky formation. Dist. Collector is directed to arrange for conduct of inspection of petitioner's property and report the nature of land surrendered ie. the land presently held by the Govt. and the alternate land offered by the petitioner for surrender for allotment to landless. Dist. Collector will file report in this Court within three weeks from now".

In compliance with the order, District Collector filed a report. It is seen from the counter affidavit as well as the report that the

Taluk Land Board has already taken possession of the land as per the surrender made by the petitioner as early as on 01.03.1979. It is stated in Paragraph 7 of the report as follows:

> "Though the land is principally rock on ground there is no objection in erecting houses on the land. The land is proposed to be assigned for erection of houses in small bits of 5 to 10 cents per head. Since it is to be used for erection of houses there is absolutely no possibility of using the land as quarry. Moreover the licensing system for grant of quarrying licence under the Kerala Minor Mineral Rules also doesn't permit quarrying operation in such small bits of land, therefore the apprehension of the petitioner that the land, if assigned, might be used as quarry as unfounded".

It is stated in Paragraph 12 of the report as follows:

> "As per the directions of this Hon'ble High Court, District Collector authorised the Deputy Collector(LR) to inspect the site for report the nature of land already surrendered and alternate land offered by the petitioner for surrender for allotment to landless. Deputy Collector(LR) inspected the site and contacted the petitioner Sri. A. Balakrishnan. At that time he stated that he is not willing to surrender the alternate land as offered. He also told that the application regarding the matter was submitted before Hon'ble High Court without his knowledge and he has no interest in surrendering alternate land".

In the light of the report of the District Collector, it is not possible to grant any relief to the petitioner. This writ petition is accordingly dismissed.

KURIAN JOSEPH, JUDGE.

smp